
**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-04-KC-135
Paul D. Westcott)	NAL/Acct. No. 200532560001
RR1 Box 87A)	FRN 0007599210
Purdy, MO 65734)	
)	
Licensee of Amateur Radio Station KC0OAB		

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: November 30, 2004

By District Director, Kansas City Office, South Central Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find Paul D. Westcott, licensee of Amateur Radio Station KC0OAB, apparently liable for a monetary forfeiture in the amount of \$4,000. For the reasons stated below, we conclude that Mr. Westcott apparently willfully and repeatedly failed to respond to Commission correspondence requesting information about his station pursuant to Section 308(b) of the Communications Act of 1934, as amended (“Act”).¹

II. BACKGROUND

2. In June 2004, the Enforcement Bureau (“Bureau”) received numerous complaints that Mr. Westcott’s Amateur station KC0OAB operated 24 hours a day, seven days a week, and interfered with Amateur communications due to an apparent lack of station control.² On June 21, 2004, the Bureau requested information from Mr. Westcott regarding the complaints and the operation of his station.³ After reviewing Mr. Westcott’s response, the Bureau issued a Warning Notice and Request for Additional Information on September 2, 2004 (“Inquiry Letter”).⁴ U.S. Postal Service records show that the Inquiry Letter was signed for by Mr. Westcott on September 7, 2004. The Inquiry Letter explained Mr. Westcott’s obligations as a licensee to furnish the information requested pursuant to Section 308(b) of the Act.

3. After receiving no response from Mr. Westcott, the Bureau issued a “Warning Notice—Failure to Reply” to Mr. Westcott on October 18, 2004 (“Warning Notice”).⁵ U. S. Postal Service records

¹47 U.S.C. § 308(b).

²Section 97.7 of the Commission’s Rules, 47 C.F.R. §97.7, requires each Amateur station to have a control operator when transmitting.

³Letter from W. Riley Hollingsworth, Special Counsel, Enforcement Bureau. June 21, 2004.

⁴Letter from W. Riley Hollingsworth, Special Counsel, Enforcement Bureau. September 2, 2004.

⁵Letter from W. Riley Hollingsworth, Special Counsel, Enforcement Bureau. October 18, 2004.

show that the Warning Notice was delivered to Mr. Westcott's address of record on October 22, 2004. To date, Mr. Westcott has not responded to either the Inquiry Letter or the Warning Notice.

III. DISCUSSION

4. Section 403 of the Act authorizes the Commission to institute on its own motion any inquiry into, *inter alia*, any matter relating to the enforcement of the Act or the Commission's rules.⁶ Section 308(b) provides that the Commission "during the term of any (such) licensees, may require from ... a licensee further written statements of fact to enable it to determine whether such original application should be granted or denied or such license revoked"⁷ Pursuant to that authority, the Bureau ordered Mr. Westcott to submit a timely written response to its Inquiry Letter and to provide the requested information. The Bureau also issued a Warning Notice to Mr. Westcott of his failure to respond to a Bureau inquiry. To this date, however, Mr. Westcott has not filed the required response. A licensee cannot ignore the directives in a Bureau inquiry letter.⁸ We, therefore, conclude that Paul D. Westcott apparently willfully⁹ and repeatedly¹⁰ failed to respond to Commission correspondence.

5. The Commission has implemented its authority under Section 503 of the Act by adopting forfeiture guidelines and rules that establish uniform base forfeiture amounts for violations.¹¹ The Commission's *Forfeiture Policy Statement* sets a base forfeiture amount of \$4,000 for failure to respond to Commission communications.¹² The resulting delay in this case has compromised the Bureau's ability to respond to the complaints presented in an effective, appropriate and timely manner. Accordingly, we find Mr. Westcott apparently liable for a forfeiture in the amount of \$4,000.

IV. ORDERING CLAUSES

6. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended,¹³ and Section 1.80 of the Commission's Rules,¹⁴ Paul D. Westcott, is hereby **NOTIFIED** of this **APPARENT LIABILITY FOR FORFEITURE** in the amount of four thousand

⁶47 U.S.C. § 403.

⁷47 U.S.C. § 308(b).

⁸*See, e.g., World Communications Satellite System, Inc.*, Forfeiture Order, 19 FCC Rcd 2718 (EB 2004).

⁹Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991).

¹⁰The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

¹¹*See* 47 C.F.R. § 1.80(b)(4) Note ("Guidelines for Assessing Forfeitures, Section I – Base Amounts for Forfeitures"); *see also The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Notice of Proposed Rulemaking, 12 FCC Rcd 17087, 17113-15 (1997) ("Forfeiture Policy Statement"), *recon. denied*, 15 FCC Rcd 303 (1999).

¹²*Id.*

¹³47 U.S.C. § 503(b).

¹⁴47 C.F.R. § 1.80.

dollars (\$4,000) for willfully and repeatedly failing to respond in writing to Commission correspondence.

7. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's Rules, within thirty (30) days of the release of this **NOTICE OF APPARENT LIABILITY**, Mr. Westcott **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. Number and FRN referenced above. Payment by check or money order may be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. Payment by overnight mail may be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer may be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Chief, Credit and Management Center, 445 12th Street, S.W., Washington, D.C. 20554.¹⁵

9. The response, if any, to this *NAL* must be mailed to the Kansas City Field Office, Federal Communications Commission, 520 NE Colbern Road, Lee's Summit, MO 64086, within thirty days of the release of the *NAL* and **MUST INCLUDE** the NAL/Acct. No. referenced above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the respondent submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the respondent's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. **IT IS FURTHER ORDERED** that a copy of this *NAL* shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Paul D. Westcott, RR1 Box 87A, Purdy, MO 65734.

FEDERAL COMMUNICATIONS COMMISSION

Robert C. McKinney
District Director
Kansas City Office
South Central Region
Enforcement Bureau

¹⁵See 47 C.F.R. § 1.1914.